

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LIL' MAN IN THE BOAT, INC.,

No. 2:16-CV-01943-JLR

Plaintiff,

vs.

AUK TA SHAA DISCOVERY, LLC

Defendants.

NOTICE OF MOTION AND
STIPULATED MOTION TO STAY
CASE PENDING APPEAL TO THE
NINTH CIRCUIT FROM THE
NORTHERN DISTRICT OF
CALIFORNIA; ~~PROPOSED~~ ORDER

NOTE ON MOTION CALENDAR:
APRIL 19, 2017

PLEASE TAKE NOTICE that on April 18, 2017, Plaintiff Lil' Man in the Boat, Inc.

and Defendant Auk Ta Shaa Discovery, LLC's jointly stipulate to stay this litigation pending the outcome of Lil' Man in the Boat, Inc.'s appeal of the Order Granting Defendant Auk Ta Shaa Discovery, LLC's Motion to Dismiss Plaintiff Lil' Man in the Boat, Inc.'s Complaint issued by the United States District Court, Northern District of California, on November 14, 2016, Case No. 16-cv-01471-JST. This motion is supported by the stipulation of all parties, through their counsel of record, as set forth below, the pleadings on file, and upon any further matters the Court deems appropriate.

1 **STIPULATION**

2 Subject to approval by this Court, Plaintiff Lil' Man in the Boat, Inc. ("Lil' Man") and
3 Defendant Auk Ta Shaa Discovery, LLC ("ATS") (collectively, the "Parties") acting through
4 their respective counsel of record, hereby stipulate as follows:

5 1. WHEREAS, Plaintiff Lil' Man filed its Complaint for breach of contract in
6 California state court on February 16, 2016 (the "California Complaint") and ATS removed it to
7 the U.S. District Court for the Northern District of California on March 24, 2016;

8 2. WHEREAS, the U.S. District Court for the Northern District of California issued
9 an Order Granting Defendant ATS's Motion to Dismiss Plaintiff Lil' Man in the Boat's
10 Complaint ("Order") on November 14, 2016, Case No. 16-cv-01471-JST ("CA Case");
11

12 3. WHEREAS, the Order dismissed with prejudice Plaintiff Lil' Man's California
13 Complaint based on lack of personal jurisdiction;

14 4. WHEREAS, Plaintiff Lil' Man filed a notice of appeal of the Order to the U.S.
15 Court of Appeals for the Ninth Circuit on December 13, 2016 (the "Appeal");

16 5. WHEREAS, Plaintiff Lil' Man filed a Complaint for breach of contract in this
17 Court on December 20, 2016 (the "Washington Complaint") in order to, *inter alia*, to preserve its
18 claim for statute of limitations purposes;

19 6. WHEREAS, the Parties conducted a preliminary mediation conference before a
20 mediator in the U.S. Court of Appeals for the Ninth Circuit on March 7, 2017;

21 7. WHEREAS, Plaintiff Lil' Man filed its opening brief in the U.S. Court of Appeals
22 for the Ninth Circuit on April 6, 2017, and;

23 8. WHEREAS, Plaintiff Lil' Man has not yet properly served Defendant ATS's
24 counsel with the Washington Complaint, however, ATS's counsel has agreed to accept service;

25 **THEREFORE, THE PARTIES STIPULATE AND AGREE TO AS FOLLOWS:**

26 1. The above-titled matter is stayed for all purposes pending the outcome of the
27 Appeal to the Ninth Circuit and/or resolution at mediation.
28

2. Upon resolution of the Appeal, the Parties will immediately notify this Court and request the stay be lifted, or if necessary, to dismiss the case with prejudice.

3. Defendant ATS shall have twenty-one (21) days after either the date the stay of the above-titled matter is lifted or Plaintiff Lil' Man serves the Washington Complaint on ATS's counsel, whichever date is later, to respond to Plaintiff Lil' Man's Washington Complaint.

IT IS SO STIPULATED.

Dated: April 18, 2017

HKM EMPLOYMENT ATTORNEYS LLP

s/ Jason A. Rittereiser

Donald W. Heyrich, WSBA No. 23091
Jason A. Rittereiser, WSBA No. 43628
Rachel M. Emens, WSBA No. 49047
600 Stewart Street, Suite 901
Seattle, WA 98101
Tel: (206) 838-2504
Fax: (206) 260-3055
Email: dheyrich@hkm.com
jrittereiser@hkm.com
remens@hkm.com

ONGARO PC

s/ David R. Ongaro

David R. Ongaro, CA SBN 154698 *

s/ Nevin Brownfield

Nevin Brownfield, CA SBN 225175 *
50 California Street, Suite 3325
San Francisco, CA 94111
Telephone: (415) 433-3900
Facsimile: (415) 433-3950
Email: dongaro@ongaropc.com
nbrownfield@ongarop.com

Attorneys for Plaintiff

** Admitted Pro Hac Vice*

1 Dated: April 18, 2017

GREENBERG TRAURIG, LLP

2 s/ Howard Holderness

3 Howard Holderness, CA SBN 169814

4 s/ Katharine Malone

5 Katharine Malone, CA SBN 290884

6 Four Embarcadero Center, Suite 3000

7 San Francisco, CA 94111

8 Telephone: (415) 655-1300

9 Facsimile: (415) 707-2010

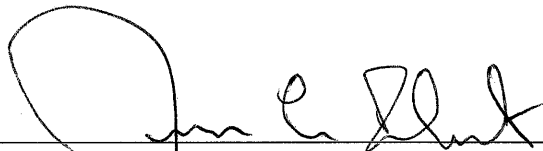
10 Email: holdernessh@gtlaw.com

11 malonek@gtlaw.com

Attorneys for Defendant

12 **IT IS SO ORDERED.**

13 Dated this 5th day of May, 2017

14
15
16
17 

18 JAMES L. ROBART
19 UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2017, I served the foregoing document, **NOTICE OF MOTION AND STIPULATED MOTION TO STAY CASE PENDING APPEAL TO THE NINTH CIRCUIT FROM THE NORTHERN DISTRICT OF CALIFORNIA; [PROPOSED] ORDER**, on the following parties in the following manner:

Party	Method of Service
Howard Holderness, CA SBN 169814	<input type="checkbox"/> Legal Messenger
Katharine Malone, CA SBN 290884	<input type="checkbox"/> Regular Mail
	<input type="checkbox"/> Facsimile
Four Embarcadero Center, Suite 3000 San Francisco, CA 94111 Telephone: (415) 655-1300 Facsimile: (415) 707-2010 Email: holdernessh@gtlaw.com malonek@gtlaw.com	<input checked="" type="checkbox"/> E-service via the Court
Attorneys for Defendant	<input type="checkbox"/> E-Mail

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 18th day of April 2017, at Seattle, Washington.

/s/ Linsey M. Teppner
Linsey M. Teppner